

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 1.25. Administrative Procedures–Hearings

Article 3. Administrative Hearing Procedures for Petitions for Review of Complaints

Subarticle 9. Reconsideration

§ 60065.42. Requirements in Filing Request for Reconsideration; Comments Opposing Request.

(a) A request for reconsideration of a hearing officer order or decision shall be signed by the party or its representative and verified under oath. The request shall be based upon one or more of the following grounds:

- (1) The hearing officer acted without or in excess of its powers;
- (2) The order or decision was procured by fraud;
- (3) The order or decision is not supported by the evidence or the findings of fact;
- (4) The requesting party has discovered new material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing; or
- (5) The hearing officer has misapplied applicable law.

(b) Any request for reconsideration shall specifically detail the grounds upon which the requesting party considers the order or decision to be unjust or unlawful and every issue to be considered on reconsideration. The requesting party shall be deemed to have fully waived all objections, irregularities, and illegalities concerning the proceeding upon which reconsideration is sought other than those specifically set forth in the request for reconsideration. The request for reconsideration will be denied if it contains no more than allegations of the statutory or constitutional grounds for reconsideration, unsupported by specific references to the record and principles of law involved.

(c) When a request for reconsideration or answer thereto has been timely filed, the filing of supplemental papers or answers may be granted at the discretion of the executive officer. Parties requesting a copy of the hearing record shall bear the cost of reproduction.

(d) The request for reconsideration may include a request that the order or decision of the hearing officer be stayed pending resolution of the request for reconsideration. As stated in section 60065.48, the order or decision shall be automatically stayed for 30 days from the date of filing of the request for reconsideration.

(e) Within ten days of being served with notice of a request for reconsideration, a party opposed to the request may file an opposition to the request with the executive officer. The opposition shall be signed and verified under oath by the party or its representative and shall not exceed 6 pages.

NOTE: Authority cited: Sections 39600, 39601, 43028 and 43031(a), Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); and Sections 43028 and 43031(a), Health and Safety Code.

REFERENCE